

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(MBHB Case No. 03-1075)

Appl. No. : 10/729,123 Confirmation No. 9023
Applicants : Jens-Uwe Schluetter *et al.*
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TC/A.U. : 2173
Examiner : Namitha Pillai

Commissioner for Patents
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RULE 1.132 DECLARATION OF FARLEY OWENS

I, Farley Owens, hereby declare and state the following to be true to the best of my knowledge, information and belief:

1. I have been employed by Trading Technologies International, Inc. ("TT") as Executive Vice-President of Product Management and Marketing since being hired by TT in 2002. Prior to TT, I have worked in various roles related to electronic and/or floor trading since approximately 1991. I have a Bachelor's of Science in Computer Engineering. Though I am not an inventor of the presently claimed invention, I am an inventor on several patent applications relating to electronic trading, including: (1) U.S. Appl. No. 10/242,062, entitled, "System and Method for Preventing Cross Trading" and filed on September 12, 2002; (2) U.S. Appl. No. 10/339,947 entitled, "System and Method for Risk Management" and filed on January 10, 2003; and (3) U.S. Appl. No. 11/178,523 entitled, "A Flexible System and Method for Electronic Trading" and filed on July 11, 2005.
2. I have reviewed the Ram (U.S. Publication No. 2003/0004853 A1) and Kennedy (U.S. Publication No. 2003/0189670 A1) references cited by the office. It would not have been obvious to take away complete control of an on-screen cursor, at a time of order entry

(e.g., setting a price parameter and/or sending a trade order), away from a trader during a price change on the display (or “automatically displaying the cursor at the second location” as recited in the claims), given the teachings of Ram and Kennedy and the conventional wisdom at the time that a trader must instinctively maintain complete control of the cursor for order entry. Interestingly, this is still the conventional wisdom today both to traders and the trading interface design community. Taking complete control of a cursor away from a trader during the critical time of order entry would have been unpredictable to one of ordinary skill in the art at the time of invention and would have led to unexpected results. In fact, at the time of the invention, one of ordinary skill in the art would have outright rejected an idea of taking complete cursor control away from the trader during the time of order entry. Rather, in designing a new trading interface at the time of the invention, one of ordinary skill in the art using common sense would have unquestionably carried over into the new design certain known, predictable attributes that were common to all previous trading screens. One such feature of other trading screens at the time is that a trader must be given complete control of the on-screen cursor during the time of order entry, because of the criticality of placing a trade order (and/or setting an order price) in an electronic market.

3. It was also known at the time of invention that a high-level of assimilation is already required by the trader to mentally process all sorts of incoming data to make better trade order decisions. There was little or no room for intentionally adding features into a trading screen design that can cause even more distraction or disorientation, especially during the critical time of setting an order price and/or sending an order. On the contrary, the focus of design in a trading screen was often to cause less distraction or disorientation to the trader. For example, a trader tracks items like the highest bid price, lowest ask price, last trade price, last trade quantity, and market bids and offers in one or more markets all at once, not to mention monitors risk levels and/or tolerances, outside market influences, and any of a number of other dynamic factors that can impact the market’s direction. One of ordinary skill in the art at the time of invention would have outright rejected intentionally adding a feature that can cause a trader further distraction or disorientation, such as due to a possibility of a complete loss of control of an on-screen

cursor during receipt of a command of setting an order parameter, like price, or during receipt of a command that both sets an order price and sends a trade order to the exchange.

4. Ram provides yet another type of trading interface from which a trader can enter trade orders to buy and sell an item listed at an electronic exchange. Ram's Figures 16-19 provide a representation of forms, which upon filling out by the user, are used to place trade orders at an exchange or make changes to the trade orders. Trade orders can also be placed using a grid in Ram by the user manually dragging a quantity from the Position Guide onto the grid (e.g., paragraph 279) with a computer's pointing device (i.e., on-screen cursor). Movement of the on-screen cursor during the time of order entry per Ram's trading interface predictably follows the same conventional wisdom that is found in the trading screens prior to Applicants' presently claimed invention, i.e., the trader maintains complete control of the cursor during order entry.
5. In the financial trading industry, there is a very strong incentive for people to try any idea that is perceived as even possibly providing a small edge in making money. Trillions of dollars in value change hands each day through the trading of products, including futures, options, commodities, equities, currencies, etc. Over a span of several decades, all of the industry players, including the exchanges, FCMs ("Futures Commission Merchants"), individual traders, trading companies and ISVs ("Internet Service Providers"), have expended considerable resources on R&D to invent any idea that can provide an advantage. Even the smallest advantage could translate into millions of dollars. The result of their endeavor can be seen in the many designs of trading screens over the years – albeit some trading screens are more successful than others. Some of those trading screens offer something new and different over the last, but none of those trading screens to my knowledge ever departed from the predictable and conventional wisdom that a trader is to maintain complete control of the on-screen cursor during the time of order entry. This was simply an understanding engrained in even the most inventive minds of the industry.

6. Accordingly, I do not believe that one skilled in the art would look to combine the features disclosed in Kennedy with that of a trading screen for use in electronic trading, so that complete control of the on-screen cursor is taken from a trader during the time of order entry. In the field of electronic trading where the stakes are often extremely high, especially during the time of order entry, one of ordinary skill in the art would outright reject the teachings in Kennedy as not applicable for use in order entry. This clear understanding is also supported by the absolute lack of departure from conventional wisdom of the user maintaining complete control through order entry, even when considering the sheer magnitude of industry-wide effort going into the development of an improved trading interface over the last several decades to the present time.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Dated: August 21, 2008

A handwritten signature in black ink, appearing to read "Farley Owens", written over a horizontal line.

Farley Owens